

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRY FAISON WILLIAMS,	:	
<i>as Power of Attorney for her Father,</i>	:	1:12-cv-64
<i>Louis T. Faison, Sr.,</i>	:	
Plaintiff,	:	
	:	Hon. John E. Jones III
v.	:	
	:	Hon. Malachy E. Mannion
UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

MEMORANDUM

March 29, 2012

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

Before the Court is a Report and Recommendation (“R&R”) of Magistrate Judge Malachy E. Mannion (Doc. 6) filed on March 9, 2012, which recommends that we grant the Plaintiff’s motion to proceed *in forma pauperis*, deny the Plaintiff’s motion for counsel, and dismiss the complaint with prejudice.

Objections to the R&R were due by March 26, 2012 and to date none have been filed. Accordingly, this matter is ripe for our review. For the reasons that follow, the R&R shall be adopted in its entirety.

I. STANDARD OF REVIEW

When, as here, no objections are made to a magistrate judge’s report and recommendation, the district court is not statutorily required to review the report

before accepting it. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). According to the Third Circuit, however, “the better practice is to afford some level of review to dispositive legal issues raised by the report.” *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). “[T]he court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also Henderson*, 812 F.2d at 878-79 (stating “the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to de novo review in the district court”); *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998). The Court’s examination of this case confirms the Magistrate Judge’s determinations.

II. DISCUSSION

Plaintiff Terry Faison Williams filed the instant *pro se* complaint on January 11, 2012 as a wrongful death action pursuant to the Federal Tort Claims Act (“FTCA”). Ms. Williams filed the instant action due to the alleged wrongful death of her father, Louis T. Faison, Sr., whom she also names as a plaintiff to this complaint.

Williams previously filed an action identical to the instant matter, docketed at 4:11-cv-395, which was dismissed by the undersigned via a Memorandum and

Oder dated August 5, 2011, due to the Plaintiff's lack of standing.¹ It is evident that the instant complaint is a mere attempted to re-litigate the prior action. Due to the principles of *res judicata*, Plaintiff may not do so. The Plaintiff's proper recourse, if she is aggrieved by our dismissal of the prior action, is to file an appeal to the United States Court of Appeals for the Third Circuit, which she has apparently done, based on our review of the docket.²

Accordingly, based on all of the foregoing, we shall adopt the Magistrate Judge's R&R in its entirety and close this case.

¹ The Magistrate Judge attached a copy of our August 5, 2011 Memorandum and Order to his R&R.

² The Third Circuit docket number for the appeal of the 11-cv-395 matter is 12-1112.